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Rule 72. Suits In Forma Pauperis.

- (a) Every indigent person who shall have a cause of action against another may petition the court in which the action is pending, or in which it is intended to be brought, for leave to prosecute the suit in forma pauperis.
- (b) All such petitions shall be accompanied by an assertion of indigency, verified by a supporting affidavit. The affidavit form is set out below. Any petition not in compliance with this provision will be returned to the petitioner. There shall be attached to the petition a copy of the complaint or proposed complaint.
- (c) The court shall make a finding regarding indigency based on the affidavit. In making its determination, the court may consider the current federal poverty guidelines which may be obtained from the Administrative Office of the Courts. If satisfied from the facts alleged that the petitioner has a colorable cause of action, the court may by order allow the petitioner to prosecute the suit in forma pauperis. Every person permitted to proceed in forma pauperis may prosecute the suit without paying filing fees and other fees charged by the clerk and shall not be prevented from prosecuting the suit by reason of being liable for the costs of a former suit brought against the same defendant.
- (d) No person shall be permitted to prosecute any action of slander, libel or malicious prosecution in forma pauperis.

(e) The form of the affidavit shall be as follows:

IN THE _____ COURT _____, COUNTY, ARKANSAS
IN RE PETITION OF _____
TO PROCEED IN FORMA PAUPERIS
NO. ____

AFFIDAVIT IN SUPPORT OF
REQUEST TO PROCEED IN FORMA PAUPERIS

I, _____, being first duly sworn, depose and say that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress.

I further swear that the responses which I have made to questions and instructions below are true.

1. Are you presently employed? Yes ____ No ____

(a) If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer.

(b) If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any money from any of the following sources?

(a) Business, profession or any form of self-employment?

Yes ____ No ____

(b) Rent payments, interest or dividends?

Yes ____ No ____

(c) Pensions, annuities or life insurance payments?

Yes ____ No ____

(d) Gifts or inheritances?

Yes ____ No ____

(e) Any other sources?

Yes ____ No ____

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months.

3. Do you own any cash, or do you have money in a checking or savings account?

Yes ____ No ____

If the answer is yes, state the total amount in each account.

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

Yes ____ No ____

If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

[6. TO BE COMPLETED ONLY IF PETITIONER IS INCARCERATED IN THE ARKANSAS DEPARTMENT OF CORRECTION OR ANY OTHER PENAL INSTITUTION.

Do you have any funds in the inmate welfare funds?

Yes ____ No ____

If the answer is yes, state the total amount in such account and have the certificate found below completed by the authorized officer of the institution.]

I understand that false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

Signature of Petitioner

STATE OF _____

COUNTY OF _____

Petitioner, _____, being first duly sworn under oath, presents that he/she has read and subscribed to the above and states that the information therein is true and correct.

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2____.

Notary Public

My commission expires: _____

[(To be completed by authorized officer of penal institution)]

CERTIFICATE

I hereby certify that the petitioner herein, _____, has the sum of \$ _____ on account to his/her credit at the _____ institution where he/she is confined.

I further certify that petitioner likewise has the following securities to his/her credit according to the records of said institution:

Authorized Officer of Institution]

[Download: In Forma Pauperis Affidavit Form]

Reporter's Notes. - New Rule 72 tracks, with some changes, the former statutory provisions governing suits by indigents. A similar rule was proposed in 1986 but was withdrawn by the Supreme Court prior to its effective date. The former statutes, Ark. Stat. Ann. 27-401, 27-403 - 27-406 (Repl. 1979), were repealed by Act 208, 75th General Assembly, in 1985. Section 27-402 [Ark. Code Ann. 16-58-133 (1987)], adopted in 1981 to replace an earlier provision, was not repealed; however, it is superseded by this rule, which contains in paragraph (b) the

requirements of 27-402. The new rule departs from the former statutes and the rule previously proposed by the Court in two ways. First, the rule does not require that the trial court assign counsel, without fee, for the petitioner. Second, the rule does not include the statutory provision allowing the trial court, in its discretion, to annul the in forma pauperis order in the event of "improper conduct" or "wilful or unnecessary delay" on the part of the petitioner. The Rules of Civil Procedure contain adequate sanctions that the court may employ in the event of such misconduct.

Rules 73-76. [Reserved.]

History Text:

History. Amended December 21, 1987, effective March 14, 1988; amended and effective by per curiam order February 23, 2012.

Associated Court Rules:

Rules of Civil Procedure

Group Title:

VIII. Counsel; Provisional and Final Remedies; Suits in Forma Pauperis

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